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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिस से कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

The following Bills were introduced in Lok Sabha on the 19th December, 1969:—

BILL No. 118 OF 1969

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1969.

5 of 1898.

Amendment of section 423.

2. In section 423 of the Code of Criminal Procedure, 1898, in sub-section (*1*), the following proviso to clause (*a*) shall be inserted, namely:—

"Provided that before passing any sentence of greater severity, the Appellate Court shall give an opportunity to the accused to show cause why the sentence should not be passed;"

STATEMENT OF OBJECTS AND REASONS

It is the fundamental principle of criminal jurisprudence that before passing any adverse order against an accused, he should be given an opportunity of showing cause against such an order.

An accused who has been convicted and appeals to the High Court is entitled to a notice to show cause if the High Court proposes to enhance his sentence. However, the position of an accused, who has been acquitted and against whose acquittal the State prefers an appeal, is uneviable.

Under clause (a) of sub-section (1) of section 423 of the Code, in the case of an acquitted accused the Appellate Court cannot only convict and increase the sentence but before doing so, no notice need be given to the acquitted accused (See: Shankar Karba Jadhav's case, Criminal Appeal No. 79 of 1969 decided by the Supreme Court on September 8, 1969).

In England, the Court of Criminal Appeal has no power to pass a sentence of greater severity than the one passed by the trial court [see: section 4(2) of the Criminal Appeals Act, 1966].

Since the acquittal all the more strengthens the presumption of innocence, the position of an acquitted accused before the first Appellate Court should not be worse off than a convicted accused. The accompanying Bill seeks to set right this anomaly and seeks to extend the basic right of an opportunity to the acquitted accused also to show cause against passing or enhancement of sentence (as passed by the trial court) by the Appellate Court by adding a proviso to this effect to clause (a) of sub-section (1) of section 423 of the Code.

NEW DELHI; M. NARAYANA REDDY.

The 17th October, 1969.

BILL No. 106 OF 1969

A Bill further to amend the Drugs and Cosmetics Act, 1940.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Drugs and Cosmetics (Amendment) Act, 1969.

(*2*) It shall come into force from the first day of January, 1970.

Substitution of Section 13.

23 of 1940.

2. For section 13 of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Offences.

"13 (1) Whoever contravenes the provisions of section 9B and if such contravention results in permanent disability or death of any person who has been administered such adulterated drug, shall be punished with death or imprisonment for life, as the case may be.

(2) Whoever contravenes any of the provisions of this Chapter, other than provisions of section 9B, or of any rule made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of section 11, be punishable with imprisonment which may extend to five years, or with fine which may extend to five thousand rupees, or with both.

(3) Whoever, having been convicted under sub-section (2), is again convicted under that sub-section, shall, in addition to any penalty as aforesaid, be punishable with imprisonment which may extend to ten years, or with fine which may extend to fifty thousand rupees, or with both."

Substitution of Section 27.

3. For section 27 of the principal Act, the following section shall be substituted, namely:—

Penalty for manufacture, sale etc., of drugs in contravention of this Chapter.

"27. (1) Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale or distributes—

(a) any drug—

(i) deemed to be misbranded under clause (a), clause (b), clause (c), clause (d), clause (f) or clause (g) of section 17; or

(ii) without a valid licence as required under clause (c) of section 18,

shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to ten years and shall also be liable to fine which may extend to fifty thousand rupees:

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than five years;

(b) any drug other than a drug referred to in clause (a) in contravention of any of the provisions of this Chapter or any rule made thereunder shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

(2) Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale or distributes any drug deemed to be adulterated under section 17B, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to 15 years and shall also be liable to fine which may extend to fifty thousand rupees."

STATEMENT OF OBJECTS AND REASONS

The existing Statute regulating the sale and manufacture of drugs in the country, namely, the Drugs and Cosmetics Act, 1940 was enacted for times when anti-social elements did not proliferate to the extent they are doing now. The punishment prescribed for offences, such as adulteration of drugs or marketing spurious drugs, in the existing law are now not deterrent enough to discourage the nefarious activities of drug racketeers. Number of deaths, of late, has been reported to have been caused by spurious drugs, drugs adulterated deliberately, or due to careless manufacture and improper bottling which permitted foreign matter to get mixed with the drugs. Drugs, instead of being life-savers, are fast becoming life-takers because of unscrupulous drug dealers getting away cheaply for violation of laws which are palpably feeble to exterminate the menace. The punishment should be adequately severe for all violations of the Drugs and Cosmetics Act, 1940, for the reason that the people who partake of the drugs do so with implicit trust and faith. The unsuspecting consumers of drugs also do not have any means of ascertaining the genuineness of the drug before administering it. In all proved cases of contravention of the Act resulting in death or permanent disability, the law should sentence the person or persons responsible to the heaviest punishment depending upon the nature of the damage caused.

Hence this Bill.

NEW DELHI;
The 3rd November, 1969

N. K. P. SALVE.

BILL No. 109 OF 1969

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title and extent.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1969.

(*2*) It shall extend to the whole of India except the State of Jammu and Kashmir.

Amendment of article 256.

2. Article 256 of the Constitution shall be renumbered as clause (*1*) thereof, and after clause (*1*) so renumbered, the following clauses shall be inserted, namely:—

"(2) Any non-compliance, either total or in part, by any State Government with the provisions of any law made by Parliament or of any direction given by the Government of India in relation thereto, shall be deemed to be a violation of the obligation of the States under this article.

(3) Notwithstanding the provisions contained in article 365, in the event of any non-compliance referred to in clause (2) by any State Government, the Union shall refer the matter to a Council set up under article 263 before giving effect to the provisions of article 365."

STATEMENT OF OBJECTS AND REASONS

The administrative and political machinery of our country as envisaged in our Constitution has been, for the first time, put to very severe stress and strains after the Fourth General Elections. The hitherto one-party rule of Congress over the entire country did not pose any problems of Centre-State or inter-State relationship. With the emergence of multi-party rule in the country after coming into power of different parties in different States, it is being realised that our quasi-federal Constitution will have to contend with recalcitrant units threatening to undermine the authority of the Central Government. The recent episode of Kerala Government's refusal to implement the provisions of the Essential Services Maintenance Ordinance, 1968, which was promulgated in connection with the September 19, 1968 agitation of the Central Government employees, is fraught with grave dangers to the basic unity of our Constitution. Article 256 defines the obligation of the States to exercise their executive power to ensure compliance with the laws made by Parliament as well as with the directions given by the Government of India. The Constitution does not prescribe any procedure or machinery to deal with a situation arising from non-compliance with the provisions of the article 256. The Constitution only contemplates taking over of the State under article 356 by the President which appears to be a very drastic step. The non-compliance by the State Governments may not involve at times a very serious matter of national policy; it may even relate to minor or administrative matters in the event of which dissolution of the Assembly and dismissal of the Ministry would be a dis-proportionate punishment and may appear to be unwarranted. One, therefore, would rather be inclined to think that a machinery be set up to allow the State Governments to express their views in matters where they disagree with the Central Government. If despite this, the matter seems to defy solution then only recourse be taken to article 356.

Hence this Bill.

NEW DELHI;
The 16th November, 1969.

N. K. P. SALVE.

BILL NO. 108 OF 1969

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1969.

Amendment of Preamble.

2. In the Preamble to the Constitution, after the word "DEMOCRATIC", the word "SOCIALIST" shall be inserted.

Amendment of article 1.

3. In article 1 of the Constitution, in clause (*1*), for the word "India", the words "Democratic Socialist Republic of India" shall be substituted.

Substitution of article 38.

4. For article 38 of the Constitution, the following article shall be substituted, namely:—

State to create a social order based on democratic socialism.

"38. The State shall create and sustain a social order based on democratic socialism in which justice, social, economic and political, shall inform all the institutions of the national life."

Amendment of article 393.

5. In article 393 of the Constitution, for the words "the Constitution of India", the words "the Constitution of the Sovereign Democratic Socialist Republic of India" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Parliament and the Government of India have unequivocally pledged themselves to Democratic Socialism.

It is, therefore, necessary that this resolve should become a part of the supreme law of the land.

Hence this Constitution (Amendment) Bill.

NEW DELHI;
The 18th November, 1969.

KRISHNA DEV TRIPATHI.

BILL NO. 119 OF 1969.

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Industrial Disputes (Amendment) Act, 1969.

Substitution of section 17-A.

2. For section 17A of the Industrial Disputes Act, 1947, the following section shall be substituted, namely:— 14 of 1947.

Commencement of the Award.

"17A (1) An award (including an arbitration award) shall become enforceable on the expiry of fifteen days from the date of its publication under section 17.

(2) The award (including an arbitration award) shall come into operation with effect from such date as may be specified therein but where no date is specified, it shall come into operation after fifteen days of the award becoming enforceable under sub-section (*1*)."

STATEMENT OF OBJECTS AND REASONS

Section 17A(1) of the Industrial Disputes Act, 1947 empowers the appropriate Government to order a legal and valid award given by the Labour Court, Tribunal or National Tribunal inoperative on the ground that it will affect "national economy or social justice". This arbitrary power given to the Government under the Act takes away the essence of the legal right of the workers. After prolonged negotiations and sometimes followed by a strike when a dispute is referred by the Government to Industrial Court for adjudication and when the Court's decisions in the form of awards are rescinded by the Government arbitrarily, it practically makes sham of the legal right given to the workers. Therefore, this provision of the Industrial Disputes Act, 1947, besides being arbitrary is immoral, illegal and anti-labour.

Recently the Orissa Government has declared as inoperative two awards given by the Industrial Tribunal, Cuttack. These awards offer certain minor benefits to the class IV employees of the Health Department of Orissa Government represented by the Orissa Medical Workers' Union. The benefits given are in the nature of an extra allowance of 10 per cent of pay for the employees working in the TB Ward with a view to provide for nourishment to fortify resistance of the body against infection, footwear, washing allowance, overtime allowance, some clothing, paid holidays on national holidays and Sundays etc. The awards have been declared inoperative since the Government cannot pay for the increased financial burden on account of it. Any dispute which Government refers for adjudication may entail certain privileges and benefits to the workers. These privileges in the form of rise in wages and other fringe benefits are basic needs which have been denied to the workers for ages. To deny these privileges after a quasi-judicial court confers the benefit to the workers is a mockery of the legal right and prolonged legal process.

In view of this, the Bill seeks to delete the provision of the Act which invests arbitrary power in the Government to declare inoperative an award given by a quasi-judicial body like the Industrial Court or the Tribunal.

NEW DELHI; SAMARENDRA KUNDU.

The 19th November, 1969.

S. L. SHAKDHER,

Secretary.